



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

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SR-56

REPLY TO

February 13, 2002

Office of the Chief
Regulatory Branch

City of San Diego
Attention: Mr. Frank Belock
Engineering & Capital Projects Department
1010 2nd Avenue
11th Floor
San Diego, California 92101-4905

Dear Mr. Belock:

Reference is made to your application (No. 972001400-TCD) dated August 10, 2001, for a Department of the Army Permit. Enclosed are two copies of the permit authorizing you to construct Phase 2 of the Middle Portion of SR-56, extending from the existing SR-56 alignment at Carmel Country Road, east to the western limit of the previously-permitted Phase 1 portion of the project. It will include two bridges, two over-crossings, and three major under-crossings. Additionally, approximately 15 culverts will be installed, with riprap protection at culvert inlets and outlets. A 1.2-mile long Access Road will be constructed in the vicinity of the proposed Camino Santa Fe interchange. Phase 2 of the project will displace 2.318 acres of Corps jurisdictional habitat, including 1.999 acre of jurisdictional wetlands. The work is proposed in the upper tributaries of McGonigle Canyon, Deer Canyon, and Los Peñasquitos Canyon Creeks, in the City of San Diego, San Diego County, California.



THIS PERMIT WILL NOT BECOME VALID UNTIL YOU HAVE TAKEN ALL OF THE FOLLOWING STEPS:

1. The owner or authorized responsible official must sign and date the both copies of the permit indicating that he/she agrees to the work as described and agrees to comply with all conditions stated in the permit.
2. The signer's name and title (if any) must be typed or printed below the signature.
3. Both signed copies of the permit must be returned to the Corps of Engineers at the above address (Attention: CESPL-CO-R). Upon receipt of the signed copies, the Corps of Engineers will sign and forward one of the copies back to you.

If we do not receive the signed copies of the permit within 60 days from the date of this letter, your request for the proposed work will be withdrawn.

We have also enclosed pre-addressed postcards for you to notify this office regarding the dates for beginning and completing the authorized activity.

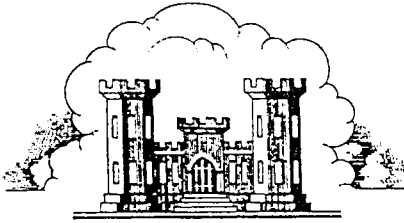
Sincerely,


Mark F. Sudol, D.Env.
Chief, Regulatory Branch 

Enclosures

Cc: US EPA – Paul Michel
USFWS, Carlsbad – Bill Ostheimer
CCC, San Diego – Ellen Lirely
RWQCB, San Diego – Mo Lahsaie
CDFG, San Diego – Tamara Spear

Dudek & Associates, Inc.
Attn: Scott Boskiewicz
605 Third Street
Encinitas, California 92024



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

DEPARTMENT OF THE ARMY PERMIT

Permittee: City of San Diego

Permit Number: 972001400-TCD

Issuing Office: Los Angeles District

Note: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The overall purpose of the SR-56 project is to provide a transportation connection that will enable regional and local traffic to avoid circuitous travel routes by providing a direct east/west connection between I-5 and I-15, north of State Route 52 (SR-52) and south of State Route 78 (SR-78). The specific purpose of Phase 2 of the project is to construct approximately 4.5 miles of freeway to complete the east/west connection by extending the freeway from the existing Camino Ruiz Interchange to the existing west segment of SR-56 located in Carmel Valley.

Overall - To discharge fill into 5.559 acres of Corps jurisdictional area in Phases 1 and 2 of the project, consisting of 4.38 acres of riparian wetlands, 0.045 acre of vernal pools, and 1.134 acres of non-wetland waters of the U.S. (WUS), for the construction of the middle portion of SR-56 and associated interchanges and culverts. Current Project (Phase 2 only of the project and associated interchanges, bridges, and culverts (*included in Overall project, above*)): To discharge fill material into 2.318 acres of Corps jurisdictional habitat consisting of 1.999 acres of vegetated wetlands, and 0.319 acre of unvegetated stream channels and farmed waters. The work is proposed as shown on the attached drawings.

Project Location: in the upper tributaries of McGonigle Canyon, Deer Canyon, and Los Peñasquitos Canyon Creeks, San Diego, San Diego County, California.

Permit Conditions:

General Conditions:

1. The time limit for completing the authorized activity ends on February 13, 2005. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification from this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

Special Conditions:

1. The permittee shall mitigate impacts to 5.559 acres of Corps jurisdictional areas, consisting of 4.38 acres of riparian wetlands, 0.045 acre of vernal pools, and 1.134 acres of non-wetland waters of the US associated with the entire Middle Section of State Route 56 in the upper tributaries of McGonigle Canyon, Deer Canyon, and Los Peñasquitos Canyon Creeks by: a) creating 5.4 acres of wetlands, 1.1 acres of Waters of the U.S., and 1.3 acres of riparian woodlands; and b) enhancing 8.8 acres of existing wetland habitat and 1.3 acres of existing riparian woodlands. Mitigation grading, planting, and irrigation shall be performed in accordance with the revised *Preliminary El Cuervo Norte Project Mitigation Schedule* (January 17, 2002, Dudek & Associates, Inc.). Mitigation construction shall occur from March 2003 through October 2003, with establishment and maintenance occurring until January 2004, prior to initiation of the five-year maintenance and monitoring period.
2. The permittee shall submit final mitigation plans based on the *El Cuervo Norte Conceptual Wetland*

Mitigation and Monitoring Plan Los Penasquitos Canyon Preserve San Diego, California (December 2001, Dudek) to the Corps (cc: EPA, USFWS, RWQCB, CDFG, and CCC) for approval a minimum of 30 days prior to the planned date of initiating waters/wetlands impacts authorized by this permit. These final plans shall be prepared in detail in accordance with the Corps' *Habitat Mitigation and Monitoring Proposal Guidelines* (June 1, 1993). The final plans shall include:

- a) All final specifications and topography-based layout grading, planting, and irrigation (with 0.5-foot contours); All wetland mitigation areas shall be graded to the same elevation as the adjacent existing wetlands and/or within one foot of the groundwater table, and shall be left in a rough grade state with microtopographic relief (including channels) that mimics natural wetland topography, as directed by the Corps; Planting and irrigation shall not be installed until the Corps has approved the mitigation site grading; The permittee shall contact the Corps for verification of proper grading of the mitigation site a minimum of 15 days prior to the planned date of initiating planting; All planting shall be installed in such a manner that mimics natural plant distribution (e.g., random distribution rather than uniform rows);
 - b) Submittal of as-built drawings of the mitigation grading, planting, and irrigation to the Corps (cc: USFWS and EPA);
 - c) At the first anniversary of plant installation, all dead plants shall be replaced unless their function has been replaced by natural recruitment as verified by the Corps;
 - d) A final implementation schedule that indicates when all wetland/waters impacts, as well as mitigation site grading, planting, and irrigation will begin and end;
 - e) Five years of success criteria for wetland creation and temporary impact restoration areas;
 - f) A minimum of five years of maintenance and monitoring of wetland creation and temporary impact restoration areas, unless success criteria are met earlier and all artificial water supply has been stopped for a minimum of two years;
 - g) Planting pallets (plant species, size, and number per acre) and seed mix (plant species and pounds per acre);
 - h) A wetland delineation to confirm that Corps jurisdictional wetlands have been successfully created prior to Corps final approval of the mitigation; and
 - i) Annual mitigation maintenance and monitoring reports shall be submitted to the Corps (cc: EPA, USFWS, RWQCB, CDFG, and CCC).
3. The permittee shall impact no more than 5.559 acres of Corps jurisdictional areas, consisting of 4.38 acres of riparian wetlands, 0.045 acre of vernal pools, and 1.134 acres of non-wetland waters of the US associated with the entire Middle Section of State Route 56 in the upper tributaries of McGonigle Canyon, Deer Canyon, and Los Peñasquitos Canyon Creeks. The permittee shall fence (with silt barriers) the limits of the construction corridor to prevent additional waters/wetlands impacts and the spread of silt from the construction zone into adjacent waters/wetlands. The permittee shall submit to the Corps (cc: EPA, USFWS, RWQCB, CDFG, and CCC) for approval final construction and excavation plans and photographs showing fenced and marked limits of impacts, and all Corps jurisdictional areas to be impacted and preserved, a minimum of 30 days prior to the planned date of initiating waters/wetlands impacts authorized by this Nationwide Permit (NWP). If waters/wetlands impacts occur outside these limits, all work shall cease, and the Corps shall be notified immediately. Any waters/wetlands impacts that occur outside the fenced and marked limits shall be mitigated at a minimum 5:1 ratio, and shall be subject to the requirements in the above special conditions.
4. The permittee shall staff a qualified biologist on site during project construction to ensure compliance with all requirements of this permit, and shall produce reports that document compliance with these requirements. The permittee shall submit the biologist's name, address, telephone number, email address (if available), and work schedule on the project to the Corps a minimum of 15 days prior to the

planned date of initiating waters/wetlands impacts authorized by this NWP. The permittee shall report any violation to the Corps within one day of its occurrence, and shall submit compliance reports (including dated and labeled photographs of all areas of authorized impact) on a monthly basis to the Corps (cc: EPA, USFWS, RWQCB, CDFG, and CCC).

5. The permittee shall submit to the Corps (cc: EPA, USFWS, RWQCB, CDFG, and CCC) within 60 days of completion of waters/wetlands impacts authorized by this NWP a report that will include as-built construction drawings with an overlay of waters/wetlands that were impacted and those that were preserved, dated and labeled photographs of waters/wetland areas to be preserved, and a summary of all project activities which documents that authorized waters/wetlands impacts were not exceeded, and compliance with all permit conditions.
6. The permittee shall comply with all reasonable terms and conditions of the Biological Opinion (US Fish and Wildlife Service Log No. 1-6-99-F-60, dated July 20, 1999) for the Middle Section of State Route 56 (SR-56) project for impacts to the Federally listed endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the *Reinitiation of the Biological Opinion for the Middle Section of State Route 56, San Diego County, California; (1-6-99-F-60R1)* (USFWS, January 29, 2002) for project impacts to the Federally listed endangered least Bell's vireo (*Vireo bellii pusillus*)(supplemental BO No. FWS-SDG-2428.3)
7. The permittee shall ensure that water quality is maintained within the channel at and downstream of the project site by incorporating appropriate design elements into the project (e.g., maintaining a soft bottom channel, installing detention basins, etc.)
8. The permittee shall ensure that no net loss of wetlands will result with implementation of this project.
9. The permittee shall preserve and place a biological conservation easement (in favor of the Corps or an agent approved by the Corps) in perpetuity on the mitigation/preserve areas, and shall submit a draft easement to the Corps a minimum of 30 days prior to the planned date of initiating waters/wetlands impacts authorized by this NWP. The form and content of the easement shall follow the enclosed example, and must be approved by the Corps prior to its execution. The easement shall state clearly that no other easements or activities that would result in soil disturbance and/or vegetation removal, except as approved by the Corps, shall be allowed within the biological conservation easement area. The permittee shall submit the final easement within 15 days of receiving Corps approval of the draft easement.
10. The permittee shall post a performance bond (see attached form) with the Corps for grading, planting, irrigation, and 5 years of maintenance and monitoring of the wetland mitigation site (including a 20% contingency to be added to the total costs). This bond is to guarantee the successful implementation of the wetland mitigation construction, maintenance, and monitoring. The surety company used must be listed on the U.S. Department of the Treasury Circular 570 as a company holding a Certificate of Authority as an Acceptable Surety on Federal Bonds. For a current list of Treasury-authorized surety companies, write or call the Surety Bond Branch, Financial Management Services, Department of the Treasury, Washington, DC 20227; (202) 874-6850. The permittee shall submit a draft bond with an itemized cost list to the Corps for approval a minimum of 30 days prior to the planned date of initiating waters/wetlands impacts authorized by this NWP. The permittee shall submit the final bond for the amount approved by the Corps within 15 days of receiving Corps approval of the draft bond.

11. You must take the actions required to record this permit with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property.

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:

- () Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).
- (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
- () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

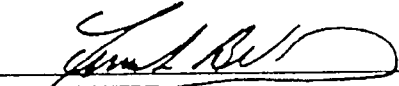
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

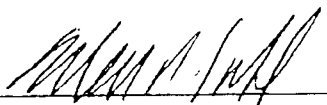
Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



PERMITTEE
Director, Engineering & Capital Projects
City of San Diego

2-25 '02
DATE

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



Mark F. Sudol, D.Env.
Chief, Regulatory Branch

28 Feb 2002
DATE

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

TRANSFeree

DATE